

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**JACK CURRY, JR.,
(BOP # 08155-025)**

Defendant.

No. 09-30026-DRH

ORDER

HERNDON, Chief Judge:

Pending before the Court is defendant's motion for reduction of sentence (Doc. 149). Specifically, defendant, by and through retained counsel, moves the Court, pursuant to 18 U.S.C. § 3582(c), for an Order reducing the term of imprisonment on the grounds that a retroactive amendment to the crack cocaine lowers the sentence range applicable to the offense. The government opposes the motion arguing that defendant cannot benefit from the Fair Sentencing Act of 2010 or from U.S.S.G. Amendment 750 as the relevant conduct was not based on crack cocaine (Doc. 160). Defendant, by and through retained counsel, filed a reply to the motion (Doc. 161). In this reply, defendant concedes that the Fair Sentencing Act of 2010 and/or U.S.S.G Amendment 750 does not apply to his

case. However, defendant disagrees with the government's assertion that his relevant conduct was not based on crack cocaine. Defendant maintains that his relevant conduct was a combination of cocaine hydrochloride and cocaine base.¹ Thus, defendant contends that he is not entitled to the reduction under U.S.S.G. § 2D1.1. The Court agrees and finds that defendant is not entitled to a sentence reduction pursuant to the Fair Sentencing Act and/or U.S.S.G. Amendment 750. The defendant was sentenced in this case on the basis of powder cocaine only and there was no consideration given to crack cocaine whatsoever. Accordingly, the Court **DISMISSES** for lack of jurisdiction defendant's motion for reduction of sentence (Doc. 149).

IT IS SO ORDERED.

Signed this 23rd day of January, 2013.

 Digitally signed by
David R. Herndon
Date: 2013.01.23
16:39:03 -06'00'



**Chief Judge
United States District Court**

¹ Defendant's relevant conduct was 6.03 kilograms of cocaine hydrochloride and .33 kilograms of cocaine base.